

### **Remarks**

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

### ***Status of All of the Claims***

Below is the status of the claims in this application.

1. Claim(s) pending: 1-9 and 11-28.
2. Claim(s) canceled: 10.
3. Claim(s) added: None.
4. Claims withdrawn from consideration but not canceled: None.
5. Claim(s) allowed: 1-9 and 11.

It is believed that the amended claims are supported by the application as originally filed. For example, support for the amendments to claims 12, 14, 18, and 27 can be at least found at pages 9-11 of the specification and FIGS. 2, 5, 8, and 9 of the drawings.

### ***Allowed Claims***

Initially, the applicant wishes to thank the Examiner for allowing claims 1-9 and 11 on page 3 of the Office Action.

### ***Independent Claim 12***

On page 2 of the Office Action, independent claim 12 was “rejected under 35 U.S.C. 103(a) as being unpatentable over Banks 5,445,288 in view of Grothoff 4,775,079.” Independent claim 12 has been amended to further clarify its recited features such that claim 12 as currently amended is distinguishable from these references. For example, Banks and Grothoff together fail to disclose all of the features recited in claim 12, such as “the shroud including one or more shroud standoffs that space the shroud from the pump body; and the flow channel being defined between the flow member and the pump body.” As recognized in the Office Action, Banks lacks a shroud, and consequently, Banks does not disclose the recited relationship between the flow member, flow channel, and standoffs. Likewise, Grothoff fails to disclose this structural relationship. As should be appreciated, the recited shroud-pump body interface allows the flow channels to be relatively large as well as robust, thereby increasing the volume of fluid that can be drawn during each pump.

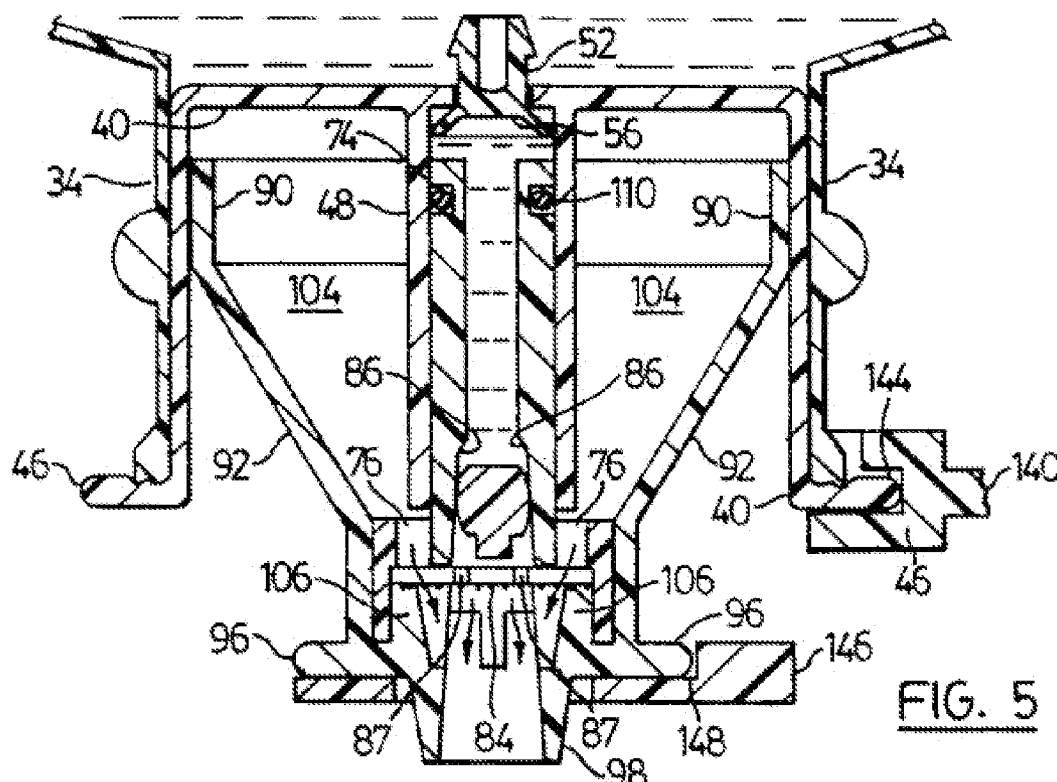
In contrast, Grothoff teaches the use of an enclosed tube or intake conduit 85 that is relatively small and can be easily kinked or dislodged during manufacturing and/or subsequent use. Considering both Grothoff and Banks fail to disclose the recited standoffs and flow channel, claim 12 cannot be rendered obvious by their combination. For these and other reasons, independent claim 12 and its dependent claims are in condition for allowance.

### ***Independent Claim 14***

On page 2 of the Office Action, independent claim 14 was “rejected under 35 U.S.C. 103(a) as being unpatentable over Banks 5,445,288 in view of Grothoff 4,775,079.” Claim 14 has been amended further recite “a vent opening defined in the pump body to vent air into the container and a vent seal to seal the vent opening.” It is believed that claim 14 as amended is allowable over the combination of Banks and Grothoff. A prima facie case of obviousness cannot be based upon a modification “[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, [because] then there is no suggestion or motivation to make the proposed modification.” MPEP §2143.01 V (citing, In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). In other words, after reading the references in whole, no one of ordinary skill in the art would have combined the teachings of both references together because such a modification would have rendered the device of Banks inoperable for its intended purpose or at best significantly hampered its intended function. Banks specifically teaches away from venting air into the container because “[i]n the presence of air many soaps tend to thicken which requires increasing force to dispense the liquid ...[t]he thickened liquid is prone to clogging up the dispensing pathway.” Col. 1, ll. 53-56. “Accordingly, it would be advantageous to provide a dispenser which produces and dispenses a liquid in the form of foam and in which the liquid is not exposed to air until expelled from the liquid container portion of the dispenser.” Col. 1, ll. 57-61. In view of this, it is submitted that one skilled in the art would not have combined the teachings of Banks and Graham to arrive at the combination of features recited in claim 14 because Banks specifically teaches away from introducing air into the container. For these and other reasons, independent claim 14 is allowable over the references of record.

### ***Independent Claim 18***

On page 2 of the Office Action, independent claim 18 was “rejected under 35 U.S.C. 102(b) as being anticipated by Banks 5,445,288.” Claim 18 has been amended in a manner that further distinguishes claim 18 from Banks. For example, Banks does not disclose “wherein the fluid passage between the outlet valve and the dispensing opening is enclosed” as is now recited in claim 18. By being enclosed, air is prevented from entering the fluid passage which in turn prevents dripping of the fluid. In contrast, the passageway 98 in Banks is specifically designed to promote air flow in order to create foam. Consequently, fluid would tend to drip from the dispenser 10 of Banks. To show this distinction, Figure 5 from Banks has been reproduced below for the Examiner’s convenience.



As can be seen by the arrows above, the passageway 98 in the web 106 is not enclosed, but rather, it is open to promote the mixture of air into the fluid in order to create the foam. Given that Banks does not disclose “wherein the fluid passage between the outlet valve and the dispensing opening is enclosed”, claim 18 as amended is not anticipated by Banks. For these and other reasons, independent claim 18 and its dependent claims are allowable over the references of record.

### ***Independent Claim 27***

On page 2 of the Office Action, independent claim 27 was “rejected under 35 U.S.C. 102(b) as being anticipated by Banks 5,445,288.” Claim 27 has been amended in a manner that further distinguishes it from Banks, and therefore, claim 27 is no longer anticipated by Banks. For example, Banks does not disclose “the flow channel is defined between the flow member and the pump body” and “the shroud having a standoff that spaces the shroud from the pump body to allow the fluid to flow between the shroud and the pump body.” As noted before, the dispenser in Banks lacks a shroud and further lacks the recited standoff along with the specific structural aspects of the recited flow channel. As another example, Banks does not disclose “the shroud having a body engagement snap bead that secures the shroud to the pump body” as recited in claim 27. Again, the dispenser in Banks lacks a shroud, and it further lacks the recited snap bead. Considering Banks fails to disclose all of the features recited in claim 27, Banks does not anticipate claim 27. For these and other reasons, claims 27 and 28 are allowable.

### ***Conclusion***

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is earnestly solicited. If after reviewing this amendment the Examiner feels that any issues remain which must be resolved before the application can be passed to issue, the Examiner is invited to contact the undersigned representative by telephone to resolve such issues.

Respectfully submitted,

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